

## **REMARKS**

Applicant appreciates the thorough examination of the present application as evidenced by the Office Action mailed October 29, 2009 (hereinafter "Final Action"). In response, Applicant has amended independent Claims 1, 18, and 31 to clarify that user interface parameters associated with operation of a device outside of a game session are changed whenever the user interface parameters change during a game session based on events occurring during the game session. Applicant respectfully submits that the cited references fail to disclose or suggest, at least, the recitations of the independent claims as amended. Accordingly, Applicant submits that all pending claims are in condition for allowance. Favorable reconsideration of all pending claims is respectfully requested for at least the reasons discussed hereafter.

### **Section 112 Rejections**

Independent Claims 1, 18, and 31 and claims depending therefrom stand rejected under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement as the recitation "continuously change" allegedly constitutes new matter. (Office Action, page 2). In response, independent Claims 1, 18, and 31 have been amended to remove the "continuously change" recitations.

Independent Claim 31 and claims depending therefrom stand rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite. (Office Action, page 3). In response, independent Claim 31 has been extensively amended as indicated above. Accordingly, Applicant submits that all pending claims satisfy the requirements of 35 U.S.C. §112.

### **Section 101 Rejections**

Claims 31 – 35 and 37 – 39 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. (Office Action, page 3). In particular, the Office Action alleges that these claims are directed to solely to computer software. (Office Action, page 3). Independent Claim 31 is written in means plus function format. Accordingly, Applicant respectfully submits that Claim 31 and dependent Claims 32 – 35, 37, 38, and 40 fall within

a statutory category under 35 U.S.C. §101. Dependent Claim 39 recites a computer program product that comprises a computer readable medium having program code recorded thereon. Thus, the claim is not directed to software alone, but computer readable program code stored on a computer readable medium. Accordingly, Applicant respectfully submits that Claim 39 falls within a statutory category under 35 U.S.C. §101.

**Independent Claims 1, 18, and 31 are Patentable**

Independent Claims 1, 18, and 31 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U. S. Patent Publication No. 2004/0157654 to Kataoka et al. (hereinafter "Kataoka"), U. S. Patent No. 6,336,865 to Kinjo (hereinafter "Kinjo"), and further in view of U. S. Patent Publication No. 2004/0216054 to Mathews et al. (hereinafter "Mathews"). (Final Action, page 4).

Embodiments of the present invention provide a link between a game environment and a device to take advantage of the game to create or adapt themes in the user interface of the device outside of playing the game during normal operation of the device. Thus, it may be possible to take advantage of the changed themes and parameters generated by the game when using the device outside a gaming session. The themes as defined by the user interface parameters associated with normal operation of the device may be automatically changed as the game evolves or semi-automatically changed when the user chooses to exit the game. The control unit may be adapted to change the user interface parameters associated with normal operation of the device as soon as there is a change in the parameters in the game.

In this regard, independent Claim 1, as amended, recites:

...

and a game platform for running a game, wherein the control unit is configured to change the parameters of the user interface associated with operation of the device outside a game session whenever the parameters of the user interface associated with operation of the device within the game session in the game change based on events occurring in the game.

Independent Claims 18 and 31, as amended, include similar recitations. The recitations of Claim 1 are directed to embodiments of the present invention where user interface parameters

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associated with operation of a device, such as a mobile telephone, outside a game session are changed whenever the user interface parameters in a game change, based on, for example, events occurring during the game session.

Applicant submits that none of the three cited references discloses or suggests changing user interface parameters associated with operation of a device outside of a game session whenever the user interface parameters change during a game session based on events occurring during the game session.

For at least the foregoing reasons, Applicant respectfully submits that independent Claims 1, 18, and 31 are patentable over the cited references, and that dependent Claims 2 – 5, 7 – 17, 19 – 22, 24 – 40, 32 – 35, and 37 - 40 are patentable at least by virtue of their depending from an allowable claim.

#### **Dependent Claims Are Patentable**

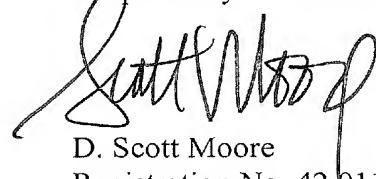
As each of the dependent claims depends from a base claim that is believed to be in condition for allowance, Applicant does not believe that it is necessary to argue the allowability of each dependent claim individually. Applicant does not necessarily concur with the interpretation of these claims, or with the bases for rejection set forth in the Final Action. Applicant therefore reserves the right to address the patentability of these claims individually as necessary in the future.

#### **CONCLUSION**

In light of the above amendments and remarks, Applicant respectfully submits that the above-entitled application is now in condition for allowance. Favorable reconsideration of this application, as amended, is respectfully requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (919) 854-1400.

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Respectfully submitted,



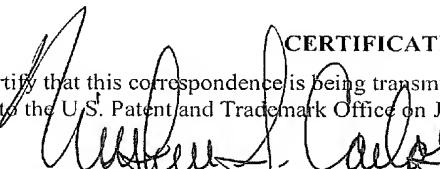
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**CERTIFICATION OF TRANSMISSION**

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) of the U.S. Patent and Trademark Office on January 29, 2010.



Kirsten S. Carlos